

Department of Energy

§ 1040.2

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APPENDIX A TO PART 1040—FEDERAL FINANCIAL ASSISTANCE OF THE DEPARTMENT OF ENERGY TO WHICH THIS PART APPLIES

AUTHORITY: 20 U.S.C. 1681–1686; 29 U.S.C. 794; 42 U.S.C. 2000d to 2000d–4a, 3601–3631, 5891, 6101–6107, 6870, 7101 *et seq.*; and 50 U.S.C. 2401 *et seq.*

SOURCE: 45 FR 40515, June 13, 1980, unless otherwise noted.

Subpart A—General Provisions

§ 1040.1 Purpose.

(a) The purpose of this part is to implement Title VI of the Civil Rights Act of 1964, Pub. L. 88–352; section 16 of the Federal Energy Administration Act of 1974, as amended, Pub. L. 93–275; section 401 of the Energy Reorganization Act of 1974, Pub. L. 93–438; Title IX of the Education Amendments of 1972, as amended, Pub. L. 92–318, Pub. L. 93–568 and Pub. L. 94–482; section 504 of the Rehabilitation Act of 1973, as amended, Pub. L. 93–112; the Age Discrimination Act of 1975, Pub. L. 94–135; Title VIII of the Civil Rights Act of 1968, Pub. L. 90–284; and civil rights provisions of statutes administered pursuant to authority under the DOE Organization Act, Pub. L. 95–91, so no person shall, on the ground of race, color, national origin,

sex (when covered by section 16 and section 401), handicap, or age, be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment, where a primary purpose of the program or activity is to provide employment or when the delivery of program services is affected by the recipient's employment practices (under section 504, all grantee and subgrantee employment practices are covered regardless of the purpose of the program), in connection with any program or activity receiving Federal financial assistance from the Department of Energy (after this referred to as DOE or the Department). Employment coverage may be broader in scope when section 16, section 401, or Title IX are applicable.

(b) DOE regulations on enforcement of nondiscrimination on the basis of handicap in programs or activities conducted by DOE are in part 1041 of this chapter.

(c) DOE regulations on enforcement of nondiscrimination on the basis of sex, under Title IX of the Education Act Amendments of 1972, as amended, are in part 1042 of this chapter.

[45 FR 40515, June 13, 1980, as amended at 66 FR 4630, Jan. 18, 2001]

§ 1040.2 Application.

(a) The application of this part is to any program or activity for which Federal financial assistance is authorized under laws administered by DOE. Programs to which this part applies are listed in Appendix A of this part. Appendix A is to be revised from time to time by notice published in the FEDERAL REGISTER. This part applies to money paid, property transferred, or other Federal financial assistance including cooperative agreements extended under any program or activity, by way of grant, loan, or contract by DOE, or grants awarded in the performance of a contract with DOE by an authorized contractor or subcontractor, the terms of which require compliance with this part. If any statutes implemented by this part are otherwise applicable, the failure to list a program in Appendix A does not mean the program is not covered by this part.

(b) This part does not apply to:

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(1) Contracts of insurance or guaranty;

(2) Employment practices under any program or activity except as provided in §§1040.12, 1040.14, 1040.41, 1040.47 and 1040.66; or

(3) Procurement contracts under Title 41 CFR part 1 or part 9.

§ 1040.3 Definitions—General.

(a) *Academic institution* includes any school, academy, college, university, institute, or other association, organization, or agency conducting or administering any program, project, or facility designed to educate or train individuals.

(b) *Administrative law judge* means a person appointed by the reviewing authority to preside over a hearing held under this part.

(c) *Agency* or *Federal agency* refers to any Federal department or agency which extends Federal financial assistance.

(d) *Applicant for assistance* means one who submits an application, request, or plan required to be approved by a Department official or by a primary recipient as a condition to becoming eligible for Federal financial assistance.

(e) *Assistant Attorney General* refers to the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

(f) *Director, FAPD* refers to the Director, Federally Assisted Programs Division, Office of Equal Opportunity, DOE.

(g) *Compliance Review* means an analysis of a recipient's selected employment practices or delivery of services for adherence to provisions of any of the subparts of this part.

(h) *Department* means the Department of Energy (DOE).

(i) *FERC* means the Federal Energy Regulatory Commission, DOE.

(j) Where designation of persons by race, color, or national origin is required, the following designations are to be used:

(1) *Black*, not of Hispanic origin. A person having origins in any of the black racial groups of Africa.

(2) *Hispanic*. A person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race.

(3) *Asian or Pacific Islander*. A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This includes, for example, China, India, Japan, Korea, the Philippine Islands, Hawaiian Islands, and Samoa.

(4) *American Indian or Alaskan Native*. A person having origins in any of the original peoples of North America and who maintains cultural identification through tribal affiliation or community recognition.

(5) *White, not of Hispanic origin*. A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.

Additional subcategories based on national origin or primary language spoken may be used where appropriate on either a national or a regional basis. Paragraphs (j) (1) through (5), inclusive, set forth in this section are in conformity with Directive No. 15 of the Office of Federal Statistical Policy and Standards. To the extent that these designations are modified, paragraphs (j) (1) through (5), inclusive, set forth in this section are to be interpreted to conform with those modifications.

(k) *Director* means the Director, Office of Equal Opportunity, DOE.

(l) *Disposition* means any treatment, handling, decision, sentencing, confinement, or other proscription of conduct.

(m) *Employment practices*, see individual section headings.

(n) *Facility* means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration, or acquisition of facilities.

(o) *Federal financial assistance* includes:

(1) Grants and loans of Federal funds,

(2) The grant or donation of Federal property and interest in property,

(3) The detail of or provision of services by Federal personnel,

(4) The sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property, the furnishing of services without consideration or at a nominal consideration, or